

(Adopted October 15, 1993)(Amended December 7, 1995)(Amended July 12, 1996)  
(Amended May 11, 2001)

PAR 2004b

January 11, 2007

## **PROPOSED AMENDED RULE 2004.**

## **REQUIREMENTS**

### **(a) Purpose**

The purpose of this rule is to establish the requirements for operating under the RECLAIM program. The rule includes provisions pertaining to permits, Allocations, reporting, variances, and breakdowns.

### **(b) Compliance Period and Certification of Emissions**

- (1) The compliance year shall be divided into four quarters for emission reporting and certification purposes. The 30 calendar days after the conclusion of each of the first three quarters shall be a reconciliation period. During the reconciliation period, the Facility Permit holder shall calculate the facility's total emissions for the quarter, acquire and have credited to the facility, pursuant to Rule 2007 - Trading Requirements and Rule 2020 – RECLAIM Reserve, any RTCs necessary to reconcile the Allocation to the emissions, and except as provided under paragraph (b)(6). submit to the Executive Officer a Quarterly Certification of Emissions. In addition, to reconcile the Allocation to the emissions, power producing facilities may utilize the Mitigation Fee Program specified in subdivision (o) of this rule.
- (2) The Quarterly Certification of Emissions shall be made in the manner and form specified by the Executive Officer and shall be certified for accuracy by the highest ranking management official with responsibility for operation of equipment subject to the Facility Permit, except as provided under paragraph (b)(6). The Quarterly Certification of Emissions shall be calculated as required by Rules 2011 - Requirements for Monitoring, Reporting and Recordkeeping for Oxides of Sulfur (SO<sub>x</sub>) Emissions, and 2012 - Requirements for Monitoring, Reporting and Recordkeeping for Oxides of Nitrogen (NO<sub>x</sub>) Emissions, and Facility Permit conditions applicable to the facility.
- (3) Upon receipt of the certified Quarterly Report, the Executive Officer will debit the RTC Listing for the submitting facility by the amount certified in

the report.

- (4) The 60 calendar days following the last day of each compliance year shall be the reconciliation period for the last quarter. On or before the last day of such reconciliation period, the Facility Permit holder shall calculate the facility's total emissions for the last quarter, acquire and have credited to the facility, pursuant to Rule 2007 and Rule 2020, any RTCs necessary to reconcile the Allocations to the emissions, and except as provided under paragraph (b)(6), submit an Annual Permit Emissions Program (APEP) report, as prescribed by the Executive Officer, for the purpose of compliance reporting, permit review, and determination of fees. As part of the APEP report, the Facility Permit holder shall accurately report the information specified in Rule 2015 subparagraph (b)(1)(C), (b)(1)(D), and (b)(1)(H) for the District's annual audit.
- (5) Except as provided in subdivision (c), the reconciliation period following the end of a quarter shall be used to reconcile the Allocation only with emissions from that quarter.
- (6) The Facility Permit holder of a facility that does not have any NO<sub>x</sub> or SO<sub>x</sub> emitting sources located at the facility (including, but not limited to, permitted, non-permitted equipment pursuant to Rule 219, rental, or leased equipment, or equipment operated by contractors) shall not be required to submit Quarterly Certification of Emissions pursuant to paragraphs (b)(1) and (b)(2), and APEP reports pursuant to paragraph (b)(4) provided that the Facility Permit holder:
  - (A) submits an application for permit amendment;
  - (B) demonstrates to the satisfaction of the Executive Officer that there are no NO<sub>x</sub> or SO<sub>x</sub> sources located at the facility;
  - (C) receives permit conditions to ensure that there are no NO<sub>x</sub> or SO<sub>x</sub> emissions from the facility at all times;
  - (D) obtains a permit to construct for any NO<sub>x</sub> or SO<sub>x</sub> sources that need to be located or operated at the facility in the future, and once the Executive Officer has issued a permit to construct, the facility shall no longer be exempt under this paragraph; and
  - (E) If the Facility Permit holder is found in violation of any permit condition issued pursuant to this subparagraph, the facility shall be assessed as a single separate violation of this rule for each source

and each day the source was on the premises. Excess emissions from each violating source, on each and every day that the source was on the premises, shall be calculated assuming the source is uncontrolled and operated for 24 hours a day.

(c) Correction of Quarterly Certification of Emissions

- (1) The Facility Permit holder may, at any time prior to the end of the reconciliation period for the last quarter of the compliance year, make corrections to any quarterly certification of emissions, provided that the Facility Permit holder demonstrates that:
  - (A) emissions were inaccurately certified due to an error caused by conditions beyond the reasonable control of the Facility Permit holder; and
  - (B) the corrected information is accurate; and
  - (C) the Facility Permit holder has made the correction within thirty days of discovering the error necessitating the correction or within thirty days of when the error reasonably could have been discovered, whichever is earlier.
- (2) If a correction is made to a Quarterly Certification of Emissions:
  - (A) the certification requirements set forth in paragraph (b)(2) shall apply to the correction; and
  - (B) the RTC Listing will be amended to show the corrected amount.
  - (C) the Facility Permit holder shall, within 30 days of the correction of the Quarterly Certification of Emission, but no later than the end of the reconciliation period for the last quarter, acquire any RTCs as necessary pursuant to Rule 2007 and Rule 2020 to reconcile the Allocation to the revised certification, and for a Facility Permit holder of a Power Producing Facility, comply with subdivision (o) of this rule.

(d) Prohibition of Emissions in Excess of Annual Allocation

- (1) Emissions from a RECLAIM facility from the beginning of a compliance year through the end of any quarter shall not exceed the annual emissions Allocation in effect at the end of the applicable reconciliation period for such quarter. Except as provided in paragraph (d)(2), or subdivision (o), any such emissions in excess of the Allocation shall constitute a single,

separate violation of this rule for each day of the compliance year (365 days).

- (2) In the event of a violation of paragraph (d)(1), the Facility Permit holder may, pursuant to this paragraph, establish a number of violations less than that set forth in paragraph (d)(1) above. The number of violations under this paragraph shall be the number of days or portion thereof, during which any source of the subject RECLAIM pollutant operated after the Allocation was exceeded, plus one violation for each 1,000 pounds, or portion thereof, emitted in excess of the Allocation. In order to establish the number of violations under this paragraph, the Facility Permit holder shall have the burden of establishing the number of days, or such lesser period as can be established, that the cumulative facility emissions were less than the annual emission Allocation. If the Facility Permit holder is not able to establish the number of days or period during which the cumulative facility emissions were less than the annual emission Allocation, the facility shall be in violation pursuant to paragraph (d)(1) of this rule.
  - (3) If the average annual price of RTCs exceeds \$8,000 dollars per ton then for purposes of paragraph (d)(2) of this rule, one violation per 500 pounds or portion thereof, of excess emissions shall be used in lieu of one violation per 1,000 pounds or a portion thereof, of excess emissions. The average annual price of RTCs will be the price most recently determined pursuant to Rule 2015 (b)(1)(E).
  - (4) For purposes of this rule, emissions from the facility shall be determined solely pursuant to methods and procedures specified in Regulation XX - Regional Clean Air Incentives Market (RECLAIM) and the Facility Permit, if applicable.
- (e) Prohibition of Submission of an Inaccurate Quarterly Certification of Emissions
- (1) Any Quarterly Certification of Emissions determined by the Executive Officer to be inaccurate, shall constitute a violation of this rule, unless the report was corrected by the Facility Permit holder in accordance with the requirements of paragraph (c)(1).
  - (2) A violation of this subdivision shall constitute a single, separate violation of this rule for each day in the quarter.

(f) Permit Requirements

- (1) The Facility Permit holder shall, at all times, comply with all rules and permit conditions applicable to the facility, as specified in the Facility Permit.
- (2) A person shall not build, erect or install a new source or a modification as defined in Rule 2000 - General, without first complying with Rule 201 - Permit to Construct.

(g) Emissions in Excess of a Concentration Limit

- (1) In the event emissions exceed a concentration limit, as established by a source test, the days of violation shall be presumed to include the date of the source test and each and every day thereafter until the Facility Permit holder establishes that continuous compliance has been achieved, except to the extent the Facility Permit holder can prove that there were intervening days during which no violation occurred or that the violation was not continuing in nature.
- (2) In the event emissions exceed a concentration limit, as established by a source test, the emissions from the source to which the concentration limit applies shall be calculated using the higher concentration for purposes of determining compliance with the facility's Allocation until the Facility Permit holder demonstrates that it is in compliance with the concentration limit set forth in the Facility Permit.

(h) Federal Requirements for the Use of Clean Fuels or Advanced Control Technology

Effective November 15, 1998, each new, modified, and existing electric utility and industrial and commercial boiler which emits more than 25 tons per year of Oxides of Nitrogen shall:

- (1) burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low polluting fuel); or
- (2) use advanced control technology, such as catalytic control technology or other comparably effective control methods, for reduction of emissions of Oxides of Nitrogen.

For purposes of paragraph (h)(1), the term "primary fuel" means the fuel which is used 90 percent or more of the operating time. This subdivision shall not apply during any natural gas supply emergency as defined in Title III of the Natural Gas

Policy Act of 1978.

(i) Breakdown Provisions

(1) Reporting Requirements

(A) The Facility Permit holder shall report any breakdown which results in:

- (i) a violation of any rule or permit condition not specified in subparagraph (i)(2)(B); or
- (ii) a request of excess emissions not be counted in determining compliance with the RECLAIM facility's annual allocations.

Such breakdown shall be reported by telephone, or other District-approved method to the Executive Officer within one hour of such breakdown or within one hour of the time the Facility Permit holder knew or reasonably should have known of its occurrence. Such report shall identify the time, specific location, equipment involved, responsible party to contact for further information, and to the extent known, the causes of the breakdown and the estimated time for repairs. In the case of emergencies that prevent a person from reporting all required information within the one-hour limit, the Executive Officer may extend the time for the reporting of required information provided such person has notified the Executive Officer of the breakdown within the one-hour limit.

(B) Within seven (7) calendar days after the breakdown has been corrected, but no later than thirty (30) calendar days from the initial date of the breakdown, unless an extension has been approved in writing by the Executive Officer, the Facility Permit holder shall submit a Breakdown Emissions Report to the Executive Officer which contains all of the following:

- (i) an identification of the equipment involved in causing or suspected in having caused or having been affected by the breakdown;
- (ii) the duration of the breakdown;
- (iii) the date of correction and information demonstrating that compliance is achieved;

- (iv) an identification of the types of emissions, if any, resulting from the breakdown;
  - (v) a quantification of the emissions in excess of those occurring under normal operating conditions (“excess emissions”), if any, resulting from the breakdown using a District- approved method consistent with the requirements of Rules 2011 and 2012 and Appendix A for each rule;
  - (vi) information substantiating that the breakdown did not result from operator error, neglect or improper operation or maintenance procedures;
  - (vii) information substantiating that steps were immediately taken to correct the condition causing the breakdown and to minimize the emissions, if any, resulting from the breakdown;
  - (viii) a description of the corrective measures undertaken and/or to be undertaken to avoid such a breakdown in the future; and
  - (ix) pictures of the equipment which failed, if available.
- (2) Compliance During Breakdown
- (A) Any rule or permit condition not specified in subparagraph (i)(2)(B) shall be inapplicable to a violation directly caused by a breakdown, provided that all of the following criteria are met:
- (i) the Facility Permit holder meets the reporting requirements specified in paragraph (i)(1);
  - (ii) the breakdown did not result from operator error, neglect, or improper operation or maintenance procedures;
  - (iii) steps are immediately taken to correct conditions leading to the breakdown, and emissions caused by the breakdown are mitigated to the maximum extent feasible; and
  - (iv) the equipment in violation is shut down by the end of an operating cycle, or within twenty-four hours from the time the Facility Permit holder knew or reasonably should have known of the breakdown, whichever is sooner.

For the purpose of this rule, an operating cycle means a period of time within which a round of regularly recurring events is

completed, and cannot be stopped without the risk of endangering public safety or health, causing material damage to the equipment or product, or cannot be stopped due to technical constraints. Economic reasons alone will not be sufficient to extend this time period. The operating cycle includes batch processes that may start and finish several times within a twenty-four hour period, in which case each start to finish interval is considered a complete cycle.

- (B) Subparagraph (i)(2)(A) shall not apply to the following District Regulations, Rules and permit conditions:
    - (i) Regulations I, IX, X, XIV, XVII, XXX, and XXXI;
    - (ii) Rules 402, 2004 (b), (d), (e), (j), and (l), 2011, and 2012;
    - (iii) any permit condition which implements any Rule or Regulation specified in clause (i) or (ii).
  - (C) If a violation of any rule or permit condition not specified in subparagraph (i)(2)(B) is likely or suspected as a result of a reported breakdown, the Executive Officer will promptly investigate and determine whether the occurrence constitutes a breakdown in accordance with the criteria set forth in subparagraph (i)(2)(A). If the Executive Officer determines that the occurrence did not constitute a breakdown, no relief shall be granted under subparagraph (i)(2)(A).
  - (D) Equipment may be operated beyond the time limit in clause (i)(2)(A)(iv), provided that a petition for an emergency variance has been filed with the Clerk of the Hearing Board in accordance with Regulation V. In the event that the breakdown occurs or the time limit in clause (i)(2)(A)(iv) ends outside of the normal District working hours, the intent to file for an emergency variance shall be transmitted to the District in the manner and form prescribed by the Executive Officer.
- (3) Excess Emissions and Annual Allocations
- (A) The Facility Permit holder meeting the reporting requirements specified in paragraph (i)(1) may request that excess emissions not be counted in determining compliance with the RECLAIM facility's annual Allocation pursuant to the requirements specified in subparagraphs (i)(3)(B) or (i)(3)(C).
  - (B) Excess emissions occurring within the first 24 hours after the



breakdown shall not be counted in determining compliance with the RECLAIM facility's annual Allocation if the Breakdown Emissions Report specified in subparagraph (i)(1)(B) contains the following additional information, and the Executive Officer approves the Breakdown Emissions Report:

- (i) the names of operators of the identified equipment, their immediate supervisors, and the managers responsible for the operation and/or maintenance of the identified equipment; and
  - (ii) the names of any other witnesses to the breakdown, if any.
- (C) Excess emissions occurring beyond the first 24 hours and up to thirty (30) calendar days after the breakdown shall not be counted in determining compliance with the RECLAIM facility's annual Allocation if the Breakdown Emissions Report specified in subparagraph (i)(1)(B) contains the additional information specified in subparagraph (i)(3)(B) and the following additional information, and the Executive Officer approves the Breakdown Emissions Report:
  - (i) information substantiating that it was beyond the RECLAIM Facility Permit holder's reasonable control to correct the breakdown condition within 24 hours; and
  - (ii) information substantiating that the RECLAIM Facility Permit holder was unable to provide on-site offsets for the excess emissions resulting from the breakdown.
- (D) The Executive Officer will notify the RECLAIM Facility Permit holder, in writing, within thirty calendar days of submission of a Breakdown Emissions Report, regarding whether the report is approved or disapproved. If approved, the notification shall specify the duration during which the excess emissions resulting from the breakdown shall not be counted in determining the RECLAIM facility's annual Allocation, and the type and amount of emissions so exempt. If the Executive Officer does not respond within thirty days, the Facility Permit holder may deem the report denied for appeal purposes.

- (j) Tampering

A person shall not tamper or interfere with, alter or adjust any monitoring or other equipment used to detect the amount, concentration, rate or other characteristic of emissions emanating from any source in a RECLAIM facility in any way which conceals or disguises the type and quantity of any such emissions.

(k) Compliance Dates

The failure to comply with any requirement in this regulation within the time specified shall constitute a separate violation for each day until such requirement is satisfied.

(l) Variances

No variance may be granted from the following provisions of this regulation:

- (A) any provisions which require Permits to Construct or which set forth requirements for Permits to Construct;
- (B) subdivision (n) of this rule or the missing data provisions of Appendices A to Rules 2011 and 2012; and
- (C) subdivisions (b) and (d) of Rule 2004, and any permit conditions which state annual Allocations.

(m) Emergencies

In the event that responses to national, regional, or local emergencies require increased emissions in excess of Department of Defense (DoD) facility Allocations, such emissions shall not be counted for purposes of determining compliance with Rule 2004 (d)(1). The DoD facility will notify the Executive Officer, in writing, within one week after the start of increased emissions caused by emergency operations as listed above.

(n) Missing Data Provisions for Recordkeeping and Reporting

- (1) In the event the Executive Officer determines that the emissions data developed or reported by the Facility Permit holder are inaccurate or incomplete or not derived in the manner required by this regulation or the Facility Permit, the missing data provisions set forth in Rules 2011 and 2012, Appendices A shall be used for the purpose of calculating emissions for recordkeeping, reporting, certification, and compliance with Allocations.
- (2) In the event a facility does not meet the monitoring requirements,

emissions shall be determined pursuant to the missing data provisions of the applicable Rule 2011 or 2012 Appendices A for purposes of determining compliance with Rule 2004 (d)(1).

(o) **Emission Mitigation Fee Program for Power Producing Facilities**

- (1) The mitigation fee program specified in Rule 2020 may be used through the 2004 compliance year by power producing facilities that emit greater than their annual allocations provided the facility or any facility under common ownership has not transferred or sold RTCs to any other entity (other than facilities under common ownership) or the District since January 11, 2001 for any compliance year during which the mitigation fee program is used.
- (2) The Executive Officer will:
  - (A) deduct RTCs in accordance with paragraphs (b)(3) and (b)(4) of Rule 2010; and
  - (B) replace the amount of deducted RTCs on a prorated basis according to the amount of RTCs generated, but not to exceed the original amount of RTCs deducted, no later than the compliance year during which RTCs are deducted.
- (3) Notwithstanding the provisions of paragraphs (b)(3) and (b)(4) of Rule 2010, if the RTCs required to reconcile emissions pursuant to Rule 2004 (b)(1) is:
  - (A) less than the amount requested from the Mitigation Fee Program, then the difference between RTCs deducted from the future year allocation and RTCs required to reconcile emissions shall be refunded to the facility; or
  - (B) greater than the amount requested from the Mitigation Fee Program, then the facility shall be subject to the provisions of subdivision (d) of this rule, and paragraph (b)(1) and subdivisions (c) and (d) of Rule 2010, for the emissions in excess of the amount requested from the Mitigation Fee Program.

(p) **RECLAIM Air Quality Investment Program (AQIP)**

Emission reductions from the RECLAIM AQIP may be used through the 2004 compliance year by RECLAIM facilities that meet the definition of Structural Buyer, as defined in Rule 2000 (c)(74).

**(q) Modeling Requirements**

- (1) If actual NO<sub>x</sub> or SO<sub>x</sub> emissions for any compliance year from a RECLAIM facility exceed its initial allocation provided by the District for that facility by forty (40) tons per year or more, the Facility Permit holder shall conduct modeling to analyze the potential impact of the increased emissions.
- (2) The modeling analysis shall be submitted within 90 days of the end of the compliance year.
- (3) Analysis shall be conducted for all equipment identified as a major source, as defined by Rule 2011 and Rule 2012 for the RECLAIM pollutants subject to the requirement in paragraph (q)(1), pursuant to the methodology in Rule 2005, Appendix A, consistent with applicable portions of 40 CFR Part 51, Appendix W, or other method approved by AQMD, CARB, and EPA.